

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

KRISTINA L. MABEY  
TX-1327024-R

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DOCKETED COMPLAINT NO.  
15-125

**AGREED FINAL ORDER**

On the 14<sup>th</sup> day of August, 2015, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Kristina L. Mabey (the "Respondent").

In order to conclude this matter, Respondent neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein. Respondent further agrees to the disciplinary action set out in this Agreed Final Order (the "Agreed Final Order"). The Board makes the following findings of fact and conclusions of law and enters this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

**FINDINGS OF FACT**

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1327024-R and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised residential real property located at 9131 Watercress Drive, Fort Worth, Texas 76135 (the "Property"), on or about November 6, 2014.
3. Thereafter, complaint number 15-125 was filed with the Board by a homeowner on or about December 23, 2014. The Board investigated the complaint to ensure compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. The Board, in accordance with the mandate of TEX. GOVT. CODE ANN. §2001, the Administrative Procedure Act (the "APA"), and the Act, notified Respondent of the nature of the accusations involved, on or about January 8, 2015. Respondent was afforded an opportunity to respond to the accusations in the complaint and was also requested to provide certain documentation to the Board. Thereafter, the Respondent provided the requested documentation, on or about February 18, 2015.
5. As a result of the Board's investigation, the Board finds that Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1 by the following acts

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or omissions which did not conform to USPAP in effect at the time of the appraisal of the Property:

- a. USPAP Record Keeping Rule- Respondent failed to maintain a work file containing all documentation necessary to support her analyses, opinions and conclusions;
- b. USPAP Competency Rule- Respondent failed to demonstrate competency by correctly employing recognized methods and techniques;
- c. USPAP Scope of Work Rule- Respondent failed to perform the scope of work necessary to develop credible results;
- d. USPAP Standards 1-2(f)-(g), 2-1(c), and 2-2(a)(xi)- Respondent failed to identify any extraordinary assumptions, hypothetical conditions, or limiting conditions necessary in the assignment, and how their use might have affected the assignment results;
- e. USPAP Standards 1-2(e)(i) and 2-2(a)(iii); 1-2(e)(iii), 1-4(g) and 2-2(a)(viii)-- Respondent failed to identify site and improvement(s) description adequately; Respondent failed to identify any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal or to analyze the effect on value of such non-real property items;
- f. USPAP Standards 1-3(a) and 2-2(a)(viii)- Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, the physical adaptability of the real estate, and market area trends;
- g. USPAP Standards 1-4(b)(i)-(iii), 1-1 (a) and 2-2(a)(viii)- Respondent failed to employ recognized methods and techniques in her cost approach, failed to provide her supporting rationale and relevant evidence and logic for her site value determination, cost of improvements and depreciation in her appraisal report. In addition, her cost of improvements was inconsistent with her stated source data (Marshall and In addition, Swift);
- h. USPAP Standards 1-4(a), 1-1(a) and 2-2(a)(viii)- Respondent failed to employ recognized methods and techniques in the sales comparison approach in terms of both the selection of comparable sales and the application of adjustments., Respondent also failed to summarize the information analyzed, the appraisal and techniques employed, and the reasoning that supported her analyses, opinions, and conclusions;
- i. USPAP Standards 1-5(a) and 2-2(a)(viii); 1-6(a)-(b) and 2-2(a)(viii)-Respondent failed to analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and Respondent failed to summarize the information analyzed, the appraisal and techniques employed, and the reasoning that supported her analyses, opinions, and conclusions to develop a market value opinion. She did not reconcile this information with her other market data; and,

- j. USPAP Standards 1-1(a)-(b); 2-1(a)-(b)- Respondent failed to employ those recognized methods and techniques that are necessary to produce a credible appraisal; and Respondent committed substantial errors of omission or commission that significantly affected the appraisal. Respondent also failed to clearly and accurately set forth the appraisal in a manner that was not misleading or to provide sufficient information to enable the intended users of the appraisal to understand the report properly.
6. Respondent made material misrepresentations and omissions of material fact with respect to the appraisal of the Property as detailed above.
7. In order to reach an expeditious resolution of this matter and avoid the time and expense of litigation, the parties enter into this Agreed Final Order in accordance with TEX. OCC. CODE § 1103.458.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Act.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1 and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(12) by making material misrepresentations and material omissions of material fact.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

### **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS**:

1. **EDUCATION.** On or before February 14, 2016, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Agreed Final Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance. If the class requires an exam, Respondent must receive a passing grade on the exam. None of the required class hours will count toward Respondent's continuing education requirements for licensure. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.

- a. A minimum, 15 hour classroom course in USPAP; and,

- b. A minimum, 7 hour classroom course in residential report writing (no examination for this course required).

2. **MENTORSHIP.** On or before February 14, 2016, Respondent shall complete sixteen (16) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board in accordance with the schedule and topics set out below. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor and a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees on or before the due date listed for each mentorship requirement. Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Agreed Final Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.

- a. Four (4) hours of mentorship concerning the sales comparison approach, including both selection of sales and making, and supporting adjustments;
- b. Four (4) hours of mentorship concerning the cost approach, including how to provide supporting evidence and logic for conclusions made;
- c. Four (4) hours of mentorship concerning development and implementation of an adequate scope of work; and
- d. Four (4) hours of mentorship concerning development of an appropriate highest and best use.

3. **TRAINEES.** Respondent shall not sponsor any trainees for six (6) months, from the date this Agreed Final Order is fully executed.

4. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order; and

5. Respondent shall comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

#### **ACKNOWLEDGMENT AND WAIVER**

**IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.**

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE ACT OR**

## **THE APA, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing, any motion for rehearing, and any right to seek judicial review of this Agreed Final Order or to bring any civil suit in state or federal court regarding the validity or enforcement of this Agreed Final Order, regardless of the claims asserted. This Agreed Final Order, the findings of fact and the conclusions of law contained in it have been fully and fairly litigated or the parties had an opportunity to so litigate. This matter has been finally adjudicated and resolved via this Agreed Final Order. This Agreed Final Order shall be treated as res judicata, precluding any re-litigation of those claims and extinguishing the right to bring suit on the matter by the parties or those in privity with them. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's website.

I have read and reviewed this entire Agreed Final Order fully and am entering into it of my own free will to avoid the expense of litigation and to reach an expeditious resolution of the matter. I neither admit nor deny that the findings of fact and conclusions of law contained herein are correct. I understand all of my compliance obligations under this Agreed Final Order and the consequences for failing to comply with those obligations.

I understand that the Board and its staff cannot provide me with legal advice and I am aware of my right to be represented by an attorney of my own choosing. I am aware of my right to a hearing, and hereby waive a hearing and also waive any right to seek judicial review of this Agreed Final Order, including for any subsequent action resulting from my failure to timely comply with an administrative requirement of this Agreed Final Order (e.g. payment of a penalty, completion of remedial education, or failure to provide logs).

## **DELIVERY OF DOCUMENTS AND PAYMENTS FOR COMPLIANCE**

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the "Texas Appraiser Licensing and Certification Board" and delivered via certified mail, return receipt requested. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming timely receipt by the Board of all the documents necessary for compliance of this Agreed Final Order.

Respondent shall send all documents and payments necessary for compliance by: (1) email to: [compliance.talcb@talcb.texas.gov](mailto:compliance.talcb@talcb.texas.gov); (2) fax to: (512) 936-3966, attn: Compliance; or (3) certified mail, return receipt requested, to: Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

## EXECUTION

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

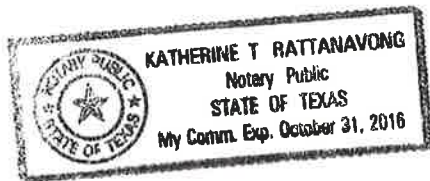
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

## RESPONDENT

Signed this 30 day of JULY, 2015.

  
KRISTINA L. MABEY

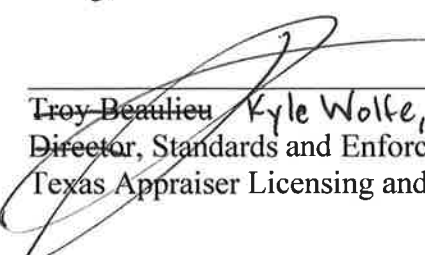
SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on the 30 day of JULY, 2015, by Kristina L. Mabey, to certify which witness my hand and official seal.



  
Notary Public's Signature

**STANDARDS AND ENFORCEMENT SERVICES DIVISION**

Signed by the Standards and Enforcement Services Division this 3rd day of August, 2015.

  
Kyle Wolfe, Attorney  
Director, Standards and Enforcement Services Division  
Texas Appraiser Licensing and Certification Board

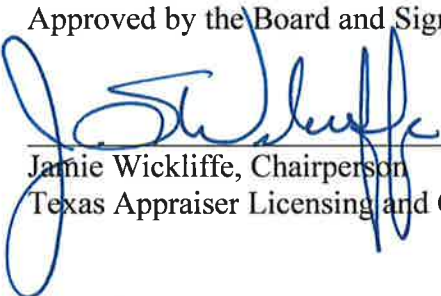
**COMMISSIONER**

Signed by the Commissioner this 3 day of August, 2015.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

**CHAIRPERSON**

Approved by the Board and Signed this 14 day of August, 2015.

  
Jamie Wickliffe, Chairperson  
Texas Appraiser Licensing and Certification Board